

Department of Health and Human Services

§ 30.7

Columbia; the Commonwealth of Puerto Rico; a territory or possession of the United States; or an Indian tribe, band or nation.

Operating Division means each separate component within the Department of Health and Human Services, and includes the Office of the Secretary, the Office of Human Development Services, the Family Support Administration, the Centers for Medicare & Medicaid Services, the Public Health Service and the Social Security Administration.

Overdue refers to a debt not paid by the payment due date specified in the notice of the debt to the debtor (see § 30.13(a)) and not the subject of a repayment agreement approved by the Secretary. Also, a debt subject to repayment agreement is considered overdue if the debtor fails to satisfy his or her obligations under that agreement. “Overdue” and “delinquent” have the same meaning. See 4 CFR 101.2(b).

Secretary means the Secretary of Health and Human Services or the Secretary’s designee within any Operating Division or Regional Office.

§ 30.3 Interagency claims.

This regulation does not apply to debts owed by other Federal agencies. These debts will be resolved by negotiation or referral to the General Accounting Office.

§ 30.4 Other administrative proceedings.

This regulation does not supersede or require omission or duplication of administrative proceedings required under contract, statute, regulation or other agency procedures. Examples: Resolution of audit findings under grants or contracts, Chapter 1–105, Grants Administration Manual (GAM); informal grant appeals, 45 CFR Part 75 (Departmental), 42 CFR 50.401 et seq. (Public Health Service); formal appeals to the Departmental Grant Appeals Board, 45 CFR Part 16; and review under a procurement contract Disputes Clause and the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.), 48 CFR Part 33.

§ 30.5 Other remedies.

The remedies and sanctions available to the Department under this regula-

tion when collecting debts are not intended to be exclusive. The Secretary may impose other appropriate sanctions upon a debtor for inexcusable, prolonged or repeated failure to pay a debt. For example, the Secretary may stop doing business with a grantee, contractor, borrower or lender; convert the method of payment under a grant from an advance to a reimbursement method; or revoke a grantee’s letter-of-credit.

§ 30.6 Property claims.

Any person who converts, or negligently loses or destroys personal property belonging, entrusted or loaned to the Department is liable for the return of the property or payment of its fair market value. A person who damages such property is liable for the cost of repairs or its fair market value, whichever is less. Collection of these debts means the recovery of the property, its fair market value, or the cost of repairs. Demand for payment of these claims means a demand for the return of the property or for payment of its fair market value or the cost of repairs.

§ 30.7 Claims involving criminal activity or misconduct.

(a) A debtor whose indebtedness involves criminal activity is subject to punishment by fine or imprisonment as well as to a civil claim by the United States for compensation for the misappropriated funds or property. Examples of such activity are fraud, embezzlement and theft or misuse of Government money or property. See 18 U.S.C. 641, 643. The Secretary will refer cases of suspected criminal activity or misconduct to the Office of Inspector General. That office will investigate such cases, refer them to the Department of Justice for criminal prosecution and/or return them to the Secretary for collection, application of administrative sanctions or other disposition.

(b) Debts involving anti-trust violations, fraud, false claims or misrepresentation—

(1) Shall be referred by the Secretary to the Office of Inspector General for review. The Office of Inspector General

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shall refer the claim back to the Secretary for collection or other disposition to the extent authorized by the Department of Justice.

(2) Shall not be compromised, terminated, suspended or otherwise disposed of by the Secretary under these regulations. Only the Department of Justice is authorized to compromise, terminate, suspend or otherwise dispose of such debts.

§ 30.8 Claims arising from GAO exceptions.

The Secretary may not compromise but will collect, suspend or terminate collection of debts due on account of illegal, improper or incorrect payments shown in General Accounting Office notices of exception issued to certifying or disbursing officers. Only the General Accounting Office has the authority to compromise such debts.

§ 30.9 Subdivision of claims.

Debts may not be subdivided to avoid the monetary ceilings imposed by 31 U.S.C. 3711(a) (2) and (3) on the Secretary's authority to compromise, suspend or terminate collection of debts. A debtor's liability arising from a particular incident or transaction will be considered a single debt in determining whether the claim exceeds \$20,000 for purposes of compromising, suspending or terminating collection efforts.

§ 30.10 Omissions not a defense.

Failure by the Secretary to comply with any provision of this regulation may not serve as a defense to any debtor.

Subpart B—Collection of Claims

§ 30.11 Collection rule.

(a) *Aggressive agency action.* The Secretary will take aggressive action to collect debts and reduce delinquencies. Collection efforts shall, at a minimum, normally include sending to the debtor's last known address a total of three progressively stronger written demands for payment at not more than 30-day intervals unless amounts are available for offset under section 30.15, or a response to the first or second demand indicates that further demand

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would be futile and the debtor's response does not require rebuttal.

(b) *Immediate action.* When necessary to protect the Government's interest, written demand may be preceded by other appropriate action, such as withholding of amounts payable to the debtor or immediate referral of the debt for litigation or filing of a claim in bankruptcy court or against a decedent's estate.

(c) *Finding debtors.* The Secretary will exhaust every reasonable effort to locate debtors, using such sources as telephone directories, city directories, postmasters, driving license records, automobile title and license records in State and local government agencies, the Internal Revenue Service, credit reporting agencies and skip locator services. Referral of a confess-judgment note to the appropriate United States Attorney's Office for entry of judgment will not be delayed because the debtor cannot be located.

(d) *Joint and several liability.* Collection of the full amount of the debt will be pursued from each debtor jointly and severally liable.

(e) *Debtor disputes.* A debtor who disputes a debt must promptly provide available supporting evidence.

(f) *Debt files.* The Secretary will maintain an administrative file for each debt or debtor, documenting the debt(s), all administrative collection action, including communications to and from the debtor, and disposition of the debt(s). Information from a debt file relating to an individual may be disclosed only for purposes consistent with this regulation, the Privacy Act of 1974 (5 U.S.C. 552a), and any other applicable law.

§ 30.12 Notices to debtor.

(a) *Required notice.* The first written demand for payment must inform the debtor of—

(1) The amount and nature of the debt;

(2) The date payment is due, which will generally be 30 days from the date the notice was mailed; and

(3) The assessment under § 30.13 of interest from the date the notice was mailed, and full administrative costs if payment is not received within the 30 days.